

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
TENNESSEE  
WESTERN DIVISION**

**CHARLESTON SHIPP  
PLAINTIFF**

**vs.**

**NO: 2:10-cv-02598-STA-dkv**

**VISIONS SPORTS BAR & GRILL, INC.,  
MARIA LOPEZ, MIKE MURFIK,  
THE CITY OF MEMPHIS, TENNESSEE,  
JIMMY HUDSON, ALKI KING,  
NOEL JACKSON, and JULIAN**

**DEFENDANTS**

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**PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT AGAINST THE  
DEFENDANTS, VISIONS SPORTS BAR & GRILL, INC AND MIKE FURFIK OR  
MURFIK**

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Comes Now the Plaintiff, Charleston Shipp, by and through undersigned counsel pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and files herewith his Motion for Clerk's Default against Visions Sports Bar & Grill, Inc. and Mike Furfik or Mike Murfik and would show this Honorable Clerk<sup>1</sup> the following:

1. The Court found that Plaintiff filed this Civil Action on August 16, 2010. (DE 24)
2. The Court found that on August 25, 2010, Plaintiff served Visions Sports Bar & Grill, Inc. and Mike Furfik or Mike Murfik. (DE24)
3. On November 17, 2010, the Shelby County Sheriff' determined that Maria Lopez was not to be found in Shelby County, Tennessee and that a tenant lived in her

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<sup>1</sup> A copy of the Declaration of Drayton D. Berkley is attached herewith as Exhibit A.

residence address. (DE 21).

4. On, March 2, 2011, the Court found that Visions Sports Bar & Grill, Inc. and Mike Furfik or Murfik had not filed a response. (DE 24)

5. The Defendants Visions Sports Bar and Grill, Inc. and Mike Furfik or Murfik have failed to answer or otherwise defend within the time limits of Rule 12 of the Federal Rules of Civil Procedure and accordingly Plaintiff is entitled to a clerk's default against them.

6. Plaintiff transmitted a default letter to these Defendants dated March 2, 2011 in an attempt to consult with them prior to motioning the Clerk Default Judgment.

WHEREFORE PREMISES CONSIDERED, the Plaintiff requests the Clerk to enter Default in his favor against Vision Sports Bar and Grill, Inc. and Mike Furfik or Murfik.

Respectfully submitted,

/s/DRAYTON D. BERKLEY

**DRAYTON D. BERKLEY, ESQ. (022601)**

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**And**

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**CERTIFICATE OF SERVICE & CONSULTATION**

The undersigned hereby certifies a copy of the foregoing has been served upon counsel for the City of Memphis and other Defendants as set forth below. The Plaintiff consulted with the Defendants Visions Sports Bar and Grill, Inc and Mike Furfik or Murfik by letter dated March 2, 2011 with no response from these Defendants. The City had been dismissed by Order of the Court dated March 2, 2011:

Mr. Zayid A. Saleem  
Assistant City Attorney  
125 North Main Ste Room 336  
Memphis, TN 38103  
Via ECF

Mr. Mike Murfik  
Individually and d/b/a Club Envy  
4069 Lamar Avenue  
Memphis, TN 38118  
Via US Mail

Visions Sports Bar and Grill, Inc  
Individually and d/b/a Club Envy  
4069 Lamar Avenue  
Memphis, TN 38118  
Via US Mail

This the 16<sup>th</sup> day of March 2011.

/s/ Drayton D. Berkley  
**DRAYTON D. BERKLEY, ESQ.**

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JIMMY HUDSON, ALKI KING,  
NOEL JACKSON, and JULIAN

DEFENDANTS

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DECLARATION OF DRAYTON D. BERKLEY, ESQUIRE PURSUANT TO 28 USC  
SECTION 1746

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COMES NOW, the declarant, Drayton D. Berkley and states on his personal knowledge as follows:

1. My name is Drayton D. Berkley and I am an adult resident citizen of Shelby County, Tennessee and I am licensed to practice law in Tennessee. My office is located at 81 Monroe Avenue Ste 400 Memphis, TN 38103. I am one of counsel for the Plaintiff.

2. This Court found that Plaintiff filed this Civil Action on August 16, 2010.  
(DE 24)

3. This Court found that on August 25, 2010, Plaintiff served Visions Sports Bar & Grill, Inc. and Mike Furfik or Mike Murfik. (DE24)

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6. The Defendants Visions Sports Bar and Grill, Inc. and Mike Furfik or Murfik have failed to answer or otherwise defend within the time limits of Rule 12 of the Federal Rules of Civil Procedure and accordingly Plaintiff is entitled to a clerk's entry of default against them.

7. Plaintiff transmitted a default letter to these Defendants dated March 2, 2011 in an attempt to consult with them prior to motioning the Clerk for Default.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

This the 16th day of March, 2011.

/s/ Drayton D. Berkley  
DECLARANT